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**This is a response by a small business pursuant to Section 603 of the Regulatory Flexibility Act**

This letter addresses specific concerns that RTE Group, Inc. has regarding your Notice of Proposed Rulemaking released on January 26, 1995 and the potential impact that such rulings would have on us and our clients. The following provides a brief background on RTE, a discussion of the potential long-term consumer implications of your regulations, and specific comments relative to your proposed regulations:

RTE Group, Inc. is a small consulting firm with revenues less than \$1 million per year. We are a young company, developing a specialized practice in the field of telecommunication and utility infrastructure. Our clients are small, medium, and large commercial and institutional property owners. We consult on a range of issues including:

- evaluation of tenant needs and property resources,
- review of service provider proposals, licensing agreements, and contracts,
- analysis of riser space allotment and leasing,
- developing plans for multiple service access,
- analysis of wholesale/resale arrangements, and
- design and analysis of in-building wiring (between demarcation and tenant space).

Fig. 1. *Phragmites* in the marsh.

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## **Long-term Implications**

Since we derive a significant part of our income from analysis of property-based telecommunications infrastructure, we would be devastated by any regulations that would in any way negate property owners' ability to control and charge for access to their property.

Our concern extends well beyond our own issues. Property owners must have the freedom to control all utility incursions on their property to insure that their tenants will have an adequate range of services at reasonable prices. Commercial real estate is a highly competitive market that quickly responds to tenant needs.

Buildings have limited amounts of space for telecommunications equipment and risers. In fact, most buildings can only accommodate two to three networks without significant reconfiguration. Property owners need flexibility to develop innovative contracts for service provision, lease equipment and riser space, and build out their own in-building networks.

### **Demarcation Point**

A common demarcation point is critical to leveling the playing field between broadband and narrowband services and among competing providers. We now see "business" cable providers wiring of major commercial high-rises with the intent of utilizing their networks to provide internet access, data services, and even voice telephony. This creates an unfair advantage for the cable companies over their telephone counterparts.

In spite of the potential technical problems with broadband service and the issue of compensation for wiring that is already in place, the most viable solution appears to be to place a common demarcation point at the minimum point of entry (MPOE). Furthermore, the most consistent and reliable definition of MPOE is 12 in. inside the building property line. The market for services will work out the issue of who builds out the services beyond the demarcation through contracts. For example, video service operators may contract with a building owner to run their network up to the tenants space. This is not a regulatory right and will be limited to the terms and duration of the contract.

As for who constitutes the consumer, both the building owner and the tenant/end user are consumers. It is the building owner that must provide the space and deal with the impact that installation and maintenance has on other building costs. As such, they are the primary customer for establishing the guidelines for ownership, etc., beyond the demarcation point. The end-user, on the other hand, is primarily interested in the services provided over the network and the ease of accessing the greatest range of competitive services. Tenants are diligent in seeking access to these services from the building

owners. The overlapping needs of these two groups is best met by minimizing regulatory information with an MPOE at the property line, and allowing market forces to arbitrate the needs of the owner, carrier, and end-user.

We urge the FCC to set the demarcation point for all properties at 12 in. inside the property line.

#### **Connections**

The issues of signal leakage and signal quality are critical. Whereas signal leakage has a direct impact on public safety, the regulatory action should include not only minimum standards, but fail-safes in the way of either mandated inspections or signal monitoring equipment. The issue of signal quality and redundancy of components beyond the demarcation may be better addressed by industry-based standards groups that are intimately familiar with the quality requirements for the various services and devices.

We urge the FCC to establish strict standards for signal leakage and encourage development of quality and redundancy standards by appropriate industry groups. We also urge the FCC to encourage development of appropriate monitoring standards and/or devices.

#### **Means of Connection**

It is critical that some group establish standards for connectors at demarcation points, whether that is the FCC or industry organizations. This need extends beyond simple narrowband and broadband service to advanced digital services as well. In order to provide for open competition, these connections must be standardized so that new equipment (and the associated space) is not required with each and every service change.

We urge the FCC to consider establishing compatibility standards for connections and to coordinate those actions with appropriate industry organizations.

#### **Regulation of Simple and Complex Wiring**

In that this issue is limited to wiring that it is beyond the demarcation that we urge, we think that regulation is unnecessary. We do, however, agree that consumers need some index of quality. This would be best addressed through development of industry standards similar to those for data networking.

We urge the FCC to consider regulations giving property owners and/or end users jurisdiction over and responsibility for all wiring beyond the demarcation point.

### **Customer Access to Wiring**

Coaxial cable wiring has not achieved the same level of user-friendliness that telephone wiring has, and, as you note, can interfere with critical communication systems if it is improperly installed. Nevertheless, due to the increasing presence and complexity of video systems, computer networks, and other communication systems dependent on coaxial cable, the expertise for installing and maintaining such equipment is increasing. It is now easy to find a contractor to do this work, and reasonably easy for individual users to do the work themselves. Consumer access to wiring must, however, be coupled with new and more precise regulations and/or standards to govern the issues of leakage and quality.

We urge the FCC to adopt regulations deregulating cable wiring beyond the demarcation point. The cable companies should be compensated on a go forward basis only to the extent that individual installations have not passed a reasonable pay back point.

### **Dual Regulation**

There is a need for both more definition of local responsibilities, and also for a separation of what state public utility commissions do vs. local franchise authorities. Convergence of these services will lessen the need for both of these authorities to oversee technology and rate setting, particularly as competition emerges. It is, however, important not to overlook the role both of these organizations play in defining accessibility, community access, and related local concerns.

We urge the FCC to develop guide standards for both state public utility commissions and local franchise authorities to define their roles, prevent overlaps, and avoid conflicting local regulations.

### **Access to Private Property**

Uniform rules for accessing private property are critical to establishing an appropriate basis for competition. Existing easements give incumbent companies a tremendous advantage in accessing many customers. Practical limitations of space for equipment and risers will prevent more than two or three other providers from accessing many buildings. The type of qualifications that would be required to allow companies access to private property would probably exclude all but the largest companies. The bottom line is that the only way to preserve competition is to allow the property owners to contract with service providers. The market forces will encourage owners, either directly or through their tenants, to allow as many competitors as possible access to their property. This will in turn promote innovation of technology and contracting methods.

We urge the FCC not to confer any rights of access to private property on narrowband or broadband carriers. Furthermore, we urge the FCC to develop regulations phasing out existing easements and rights over private property so that all carriers will be on equal footing.

#### **Customer Premises Equipment**

We urge the FCC to develop consistent regulations giving end users the right to possess all types of narrowband and broadband customer premises equipment (CPE). These regulations should be coupled with standards and/or interconnect devices to prevent these devices from damaging the public network.

#### **SUMMARY**

In summary, we think that the interests of competition, small business, and the commercial real estate industry are best served by the following:

- Establishing the demarcation for both narrowband and broadband services at a point 12 in. from the property line.
- Ownership of all components on the property side of the demarcation shall be determined by contracts among the service providers, property owners, and end users and subject to appropriate guidelines for signal leakage, quality and redundancy.
- Develop phased turn-over of all network components on property side of demarcation to property owners so all service providers are on equal footing.
- Establish guidelines for state public utility commissions and local cable franchise authorities consistent with these guidelines and avoiding overlap.

We appreciate this opportunity to comment on your proposed regulations and would be glad to provide any additional information or expansion of our comments that you require.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'G. Gabriel Cole', with a stylized flourish at the end.

G. Gabriel Cole  
President